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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/426,654	10/25/1999	KENJI NEMOTO	FUJR-16.535	2188
7590	03/24/2004		EXAMINER	PEREZ GUTIERREZ, RAFAEL
Katten Muchin Zavis Rosenman 575 Madison Avenue New York, NY 10022			ART UNIT	PAPER NUMBER
			2686	13
DATE MAILED: 03/24/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/426,654	Nemoto	
	Examiner Rafael Perez-Gutierrez	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 December 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

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## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 30, 2003 has been entered. **Claims 1-9** are now pending in the present application.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 2, and 5-8** are rejected under 35 U.S.C. 102(e) as being anticipated by

**Yoshida et al. (U.S. Patent # 6,233,257 B1)**, as applied in the previous Office Action.

Consider **claims 1 and 5-7**, Yoshida et al. clearly show and disclose a wireless local loop (WLL) system 50 (radio communication system) (figure 1A) and method for performing radio communication control having frames 200, 202 with a plurality of transmit and receive time slots

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(T1-T4 and R1-R4) (figures 2A and 2B) and guard spaces (intervals) 306, 308, 320, 322 between said receive time slots (figures 3A and 3B), comprising:

a propagation information calculation device (not shown but inherent) arranged in radio base station 100 (figure 1A) and including continuous receive time slot allocating means (not shown but inherent) for allocating to a WLL personal station 102 (terminal unit) (figure 1A) more than one receive time slot R1-R4 in a frame 200, 202 (figures 2A-3B) to generate a continuous receive time slot (i.e., time slot 212 with guard time 320) (figure 3B) for the WLL personal station 102 (terminal unit) (figure 1A) (column 4 lines 12-16, column 4 line 54 - column 5 line 29, and column 6 lines 38-48) and propagation information calculating means (not shown but inherent) for communicating with the WLL personal station 102 (terminal unit) (figure 1A) during a period of the continuous time slot to calculate propagation information about radio wave propagation between radio base station 100 and the WLL personal station 102 (terminal unit) (figure 1A) (abstract, figure 4A steps 412-416 414, figure 4B steps 432-436, figure 4C steps 412, 414, 454, and 456, column 2 lines 11-34, column 6 lines 19-37, column 8 line 48 - column 9 line 8, column 9 lines 30-52, and column 10 lines 3-14); and

a transmission timing calculation device (not shown but inherent) arranged in the WLL personal station 102 (terminal unit) (figure 1A) and including a transmission timing calculating means (not shown but inherent) for calculating, during the period of the continuous time slot and based on the propagation information, transmission timing for a signal to be transmitted from the WLL personal station 102 (terminal unit) to the radio base station 100 (figure 1A) (abstract, figure 4B steps 436 and 438, figure 4C steps 454-458, column 4 lines 23-28, column 9 lines 43-

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52, and column 10 lines 3-23) and signal transmitting means (not shown but inherent) for transmitting the signal in accordance with the transmission timing (abstract, step 418 in figures 4A and 4B, figure 4C step 460, column 3 lines 54-57, column 9 lines 53-58, and column 10 lines 23-28).

Consider **claims 2 and 8, and as applied to claims 1 and 7 above**, Yoshida et al. further disclose that, to calculate the propagation information, the propagation information calculating device (not shown but inherent) measures a time from transmission of control data (test data) to the WLL personal station 102 (terminal unit) (figure 1A) to reception of the control data (test data) returned from the WLL personal station 102 (terminal unit) (figure 1A) and calculates a radio wave propagation time or distance between the radio base station and the WLL personal station 102 (terminal unit) (abstract, figures 1A and 4A-4C, and column 6 lines 19-37).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (U.S. Patent # 6,233,257 B1), as applied in the previous Office Action.**

Consider **claim 3**, and **as applied to claim 1 above**, Yoshida et al. also disclose that the transmission timing calculating device (not shown) stores, in some kind of memory device, information on the calculated transmission timing (abstract and column 2 lines 33-35).

Although, Yoshida et al. do not specifically disclose that the information is stored in a nonvolatile memory, the Examiner takes Official Notice that it is notoriously well known in the art to use a nonvolatile memory to permanently store information that is used frequently.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically use a nonvolatile memory in Yoshida et al. to store the information on the calculated transmission timing in order to permanently store such information and reduce the system's processing time.

Consider **claim 4**, and **as applied to claim 1 above**, although Yoshida et al. does not disclose that the continuous time slot allocating means (not shown but inherent) cancels allocation of the continuous time slot after the transmission timing is calculated, a person of ordinary skill in the art at the time the invention was made would have clearly recognized that, by canceling the allocation of the continuous time slot after the transmission timing is calculated,

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substantial resources can be reused for increasing the capacity of the system.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to cancel the allocation of the continuous time slot after the transmission timing is calculated in order to reused resources to increase the capacity of the system.

***Response to Arguments***

5. Applicant's arguments filed on May 6, 2003 have been fully considered but they are not persuasive.

In the present application, Applicant argues on pages 7 and 8 of the remarks, that Yoshida does not suggest continuously allocating time slots in a frame to generate a continuous time slot.

The Examiner respectfully disagrees with Applicant's argument because:

a) Yoshida et al., given the broadest reasonable interpretation of the above language, clearly teach continuously allocating time slots in a frame when they disclose that the transmission time slot allocated to the terminal unit comprises time slot 204 and guard time 302 which is a continuous time slot (figure 3A and column 6 lines 38-57) and the reception time slot allocated to the terminal unit comprises time slot 212 and guard time 320 which is a continuous time slot (figure 3B and column 6 line 58 - column 7 line 7); and

b) the teachings of Yoshida et al., specifically the time slot being a combination of a time slot and guard time, clearly meet Applicant's definition, on page 7 lines 22-25 and page 9 lines

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11-16 of the specification, of a continuous time slot (i.e., a combination of a control time slot and expanded guard bits).

Finally, Applicant's failure to adequately traverse the Examiner's taking of Official Notice in the previous Office Action is taken as an admission of the facts noticed.

***Conclusion***

6. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

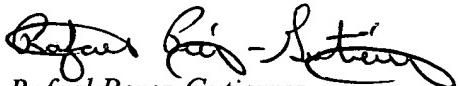
Crystal Park II  
2021 Crystal Drive  
Arlington, VA 22202  
Sixth Floor (Receptionist)

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.



Rafael Perez-Gutierrez

R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**  
**PATENT EXAMINER**

March 20, 2004